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A LETTER,

ADDRESSED

TO THE PRESIDENT OF THE BOARD
OF TRADE, TORONTO,

ON THE

USURY LAWS,

WITH

AN APPENDIX:

BY A CITIZEN.

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"MAGNA EST VERITAS ET PRÆVALEBIT."  
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TORONTO:

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TO THE PRESIDENT OF THE BOARD OF TRADE, TORONTO.

SIR,—I address you in consequence of an allusion made, at your recent meeting, to the Usury Laws, and the copy of a petition for their repeal, transmitted by Mr. Sherwood for the consideration of your board, and which appeared in a late number of the *Colonist*.

It is gratifying to every enlightened and liberal individual, to find that this important subject occupies the attention of our worthy representative ; and I sincerely hope that it will receive from the members of the Board of Trade, and also from the public, that unbiassed consideration which its extreme importance deserves.

On entering into the merits of a question upon which parties have long been at issue in opinion, it may be necessary to endeavour to disabuse the public mind of some of the many fallacies which interest, prejudice and selfishness, have conspired to create and maintain. The subject being one of vital interest to this colony, it requires a fair and dispassionate investigation of all its bearings.

It is not, however, necessary, and especially at this period, to go into the history of the establishment of laws against Usury ; or to enter upon an inquiry *why* they were enacted. It must be perfectly obvious to

every unprejudiced mind, that *now* they are not only inoperative but extremely prejudicial to the best interests of society. They are a prohibition of the exercise and application of a man's own legitimate property, to those purposes and for those objects which the increasing wants of an increasing community invariably require ; and which fact is especially manifested in Canada.

We cannot, in these days, go back to a system of barter. To exchange one thing for another, as a mode of subsistence for a thriving colony, would be impracticable ; and even were it not so, such a state of things here would only serve to check the increase of wealth and population, and drive away those who, in the fullest confidence of success—created often by the representations of interested parties—have been induced to leave their native soil and settle on these shores.

Land is not money, nor can it be made applicable to the maintenance and support of a family, without the necessary outlay and cultivation ; and how is the *surplus* produce of land, when cultivated, to be made available to the owner or cultivator, for procuring those things which his land does *not* produce, but through the agency of money ? Money is the instrument *by* which the exchange of commodities is effected and the medium *through* which all commercial and other operations are brought to a balance and terminated ; and, further, *without* which land would become valueless—steamboats useless—warehouses empty—

houses uninhabited—and a city deserted ! Deny this who can ?

Money, therefore, being essential to the promotion of those objects which mankind have in view, and also to the possession of those things they may wish to acquire, the question is, why should the use or employment of it be restricted by law, and its value to the owner be limited and controlled, any more than the price or value of any other species of property ?

It may, however, be said that the essential quality of money is metal—gold, or silver, or even copper. This may be so as regards the ordinary and common acceptation of the *name*. But what is the fact ? Money is only a standard of value, just the same as a bushel or a peck is a standard of measure. But who would not consider himself wealthy if possessing a few thousands or millions of *ten dollar* BILLS ? Those are what the LAW authorises to pass from hand to hand *as money* ; and although in themselves possessing no intrinsic value, they are made the *representatives* of value, by which standard the exchange or value of property is *measured* ; and when they are *possessed* are considered valuable—very !

Hence it is clear that what we are accustomed in our daily affairs to count as money, is only the paper issued by chartered companies and circulated from hand to hand by the public—mere promises to pay the sums they represent. In their “ passage through life,” however, and as the representatives of value, they answer, between buyer and seller, the same

purposes which the same specified amount of gold or silver *would* answer, *could* gold or silver be commanded or obtained. What more than this would any country want?

If, then, these bits of paper are, by the law of the colony, sanctioned as *money*, and by common consent admitted, received and used, as such—or as the representatives of that which the colony has not got, *SPECIE*,—and if their purchasing power be, as it is, equal to that of hard money—why restrict their useful power by a tariff? The value and use of money (or bank bills, if you please) is in every country incalculable; and yet in this colony its operations are checked—its valuable influence limited and controlled by enactments of by-gone days, sustained and continued by the prejudice of the present day!

It is not in the power of any man to assign an indisputable reason why money ought not to be at the discretion and free disposal of its legal owner, as much as a horse or a cow; nor is it in the power of any man to disprove that *Usury* existed in the days of Scripture. What a farce, then, to make a sin of it in the present day, when men are, by law, allowed to contract debts, liabilities and obligations, and if sued for recovery, are allowed also the additional privilege of pleading *nulla bona*.

All laws ought to be based on a principle of equity; not however, on the equity of “share and share alike,” because in that case some would get more than their deserts by escaping what must be name-

less; but upon that system by which enactments shall not oppress one party and favor another, but which in their origin, progress and end, shall contribute to yield and produce "the greatest happiness to the greatest number"—which is the golden rule for legislation, and cannot be too extensively practised in this or in any country. Laws thus constituted are not likely to be infringed or violated, which is every day the case with the laws against Usury. And now let me ask the question, what *is* Usury? The answer to the inquiry is plain. It is money paid and received for the *USE* of money lent. In this respect it differs nothing from *profit*: for what is profit? The answer is equally intelligible. It is money obtained over and above the capital employed or invested in any pursuit or undertaking. Where then is the difference between Usury and Profit, since the latter is clearly *gain* made by the *USE* of money? But refined morality may say "Usury is forbidden by law." So would *profit* be forbidden by law, if there happened to be a law to forbid it, or legislators could be found sufficiently stupid to pass such a law. But where is the legislator who would have the folly to stand up in his place and advocate the absurd doctrine that property and commodities are not, and ought not to be, bought and sold at whatever price the market for the same will admit, and the seller and purchaser are willing to give and take?

Then if this be law as regards property and commodities generally, why is it not so as regards money?

Money is the instrument or medium by which commodities are possessed and circulated through the country, and without which those commodities would, to the cost of our merchants, find a very slow transit and yield small profit. Why then fetter the wheels of a machine which is intended to carry you to the goal you have in view? Why lock the hind wheels of your carriage when you are going up a hill? and yet such is the practical effect of the law against Usury, as applied to commercial affairs! It is putting on a "*drag-chain*" at the very time when the greatest amount of animal power is required, and for what purpose, I would ask? To what extent do the community derive *benefit* from it? or is it not a truth, that the *beasts* thus driven *suffer* more than any *gain* which can be gathered from the ridiculous fancy that the best way to get up a hill is to lock your hind wheels?

To come still nearer to the point. Do we not every day hear that every thing has its *value*? Even a statesman has his *price*, but his particular *value* might be hard to define. If every thing then has its value, and if "the value of a thing be what it will fetch," why, again, I ask, is not money—the most vital of all things in the world except life (and what would life be without it?)—why is money not left to find *its* own value in the market, like a load of hay or a load of wheat? and why not let those who want it give as much or as little for the use of it as the owner may, under the circumstances of the case, be willing to part with it for?

I can see no just cause or reason, why a man should be compelled by law to refuse 10 per cent. for the loan or use of his *money*, any more than a man should refuse to take ten dollars a ton for his *hay*, when purchasers are ready and willing to give that price ! If horses are starving and want food, they must be fed at whatever cost, and the law has laid no restrictions on the price of *food*, therefore it can be had and the horse can be fed and kept alive. But if a MERCHANT be "hard up," as it is termed, and desirous of getting over a period of difficulty, and is willing to pay 10 per cent. for a loan for a short time, —and further, if he be so fortunate as to find a friend in whose sleek smiling face he can so far trace the lines of kindness as to encourage him to "pop the question," and asks, imploringly, "Can I have the favor of a temporary loan for two or three months?" he is met by the answer, "my money is in bank stock, which you know pays me 8 per cent.; why then should I disturb it, and lend it to you at 6 per cent.?" The answer of the merchant is, "I will willingly give 10 per cent. if I can be accommodated, and ample security also." The rejoinder is, "No; the law allows the banks to *pay* 8 per cent. to their stockholders, but it does not allow me to *take* more than 6 per cent. from you; and therefore, even if you 'go to the wall' for want of the assistance, I cannot give it." So that a merchant, for want of a temporary accommodation to enable him to meet a pressing engagement which he cannot forego, must have his

credit destroyed and be cut up root and branch because he cannot *by law* purchase the commodity he is in want of, MONEY, or obtain its use at a price which he is willing to pay for it! Much common sense in this state of things!

Now, where is the justice of such a law to either party? We know that money is the great moving power of all things. Its agency is required and applied in every thing. Its instrumentality is essential to all the operations of commerce, industry and enterprise. It feeds the hungry, clothes the naked, and is indispensable in procuring the necessities and luxuries of life; and yet this great instrument of good, this *primum-mobile*, is fettered by legal restrictions which do not attach to any other species of property in the known world! What superlative wisdom is this to be sure! especially when found to exist in the present enlightened generation!

Suppose the owner or possessor of a large quantity of land, which from increase of population and other circumstances became year after year of increased value, were to be prohibited by law from selling the whole or any part, except at a price fixed thereon by the legislature: what would HE say? Would he not exclaim, with the Duke of Newcastle, "Have I not a right to do what I will with my own?" And what would be said of the government which would reply "No, you have no right of control over your own property—we are better able to judge of its value than you are—and although you might *get*

ten dollars an acre for your land, we forbid you to *take* more than *five*, on pain of forfeiting three times the value of what you sell!" Who would not rebel against such a doctrine as this? And yet this doctrine is practically applied to money, the most useful article in the world,—when land, houses, shipping, grain, cattle, hay, straw, and every other description of property in life, is allowed to sell for whatever it will fetch; the principle of supply and demand in the market governing, as it ought to govern, their value between buyer and seller.

There are laws for regulating weights and measures—the *pound* weight shall contain a certain number of ounces, the *peck* a certain number of quarts, the *bushel* a certain number of pecks, and the barrel of flour a certain number of pounds weight. These are all right and proper, as fixing a standard in each case,—but the laws *stop there*; they do not ridiculously go farther and say to the respective vendors, "you shall not be allowed to *sell* your property *above* a certain price." And yet the laws say to the owner or possessor of MONEY, "You shall not make a greater PROFIT of it than 6 per cent.!" What consistency—what common sense—what fairness is there in this?

Again, the law prescribes the weight of a penny—the weight of a shilling—the weight of a sovereign, and the quantity of pure gold which the latter shall contain, viz., eleven-twelfths of pure gold and one of alloy, to constitute its value as the pound sterling. But the law in this case goes farther than in the

ordinary case of weights and measures, for it says "you shall not make what use you will of your own; we will not only define the quality and fix the value of your money, but you shall not be allowed to use it, or make a greater profit of its use, than 6 per cent.; and if you do, you shall be at the mercy of any unprincipled vagabond who may choose to turn informer!" This is equity with a vengeance!

A man may build a house, for which another man may be willing to pay him a rental of a hundred a year; but a third party steps in and says, 'I like the house very well and wish to have it, I will give you a hundred and twenty pounds a year for it.' Does the law in this case step in and say to the builder, "No, you shall *not be allowed* to let your house for *more* than a hundred a year? Why then restrict the loan of money to a fixed amount of profit, when for the loan of a house you may charge what you can get? Instances of the absolute *absurdity* of such enactments might be multiplied *ad infinitum*; and their *injustice* is greater in proportion than their *absurdity*.

In England, these enactments have at length been repealed, except on loans on landed property secured by mortgage; and the merchant and trader is at liberty to borrow and take up money when he wants it, at whatever price he chooses to pay for the accommodation. The result has been found most advantageous to both parties; and, so far from operating to the prejudice of the borrower, by putting him, as it was termed, "at the mercy of the lender," it has

placed the borrower in the better position of the two ; it has opened a fair field for competition in capital, which now flows unrestrictedly through the channels of commerce, "open to all, influenced by none."

The great struggle in England, which lasted so long, in support of the Usury Laws, is easily explained. It is well known that at one period nearly two-thirds of the members of the House of Commons (the oven in which the laws are baked) were nominees of aristocracy; either the poor sons of Lords and landholders, or holders of seats by their influence over the votes of their tenantry. Upon every measure in any way affecting the privileges or interests of a Lord or landholder, these members were put in requisition to support their views and wishes, however just or however unjust. It is also well known that the landed estates and domains of many of the English Lords and Nobles have descended from father to son burthened with heavy mortgages, the interest of which has to be paid by the inheritor. Every attempt, therefore, under the old regime, to abolish the Usury Laws, was met by all the opposition that Lords and landholders could command, under the apprehension that the interest on their mortgages would thereby be increased; and their nominees must of course vote according to their commands. Thus was the evil perpetuated, until the enlightenment of the age and change of circumstances, combined to bring about and produce the salutary and sensible change in the law of money lending and money borrowing.

Now, there exists no such grave cause, in Canada, for opposition to a repeal of the Usury Laws. Here there are no titled aristocracy, whose estates have come from father to son encumbered with mortgages, and who, in such a case, might possibly seek to protect their individual interests even at the expense of that of the public. On the contrary, there is every reason for every party, and more especially for the mercantile community, to unite, and as one man use every endeavour to erase from the statutes of the country an act so unjust—so injurious—so inconsistent and so absurd, as the law against Usury.

Mr. Sherwood's petition for this object does not come up to my standard of such a document, being as I consider, rather too diffuse. I have therefore taken the liberty of reconstructing it, adhering as much as possible to his ideas and phraseology; and give it in my own shape, in an appendix, for adoption or rejection, as the case may be.

I have the honor to be,

SIR,

Your most obedient servant,

A CITIZEN.

Toronto, 17th March, 1847.

APPENDIX.

PROPOSED PETITION

**To the Honourable the Legislative Assembly in
Provincial Parliament assembled.**

The Petition of the undersigned Merchants, Agriculturists, Mechanics and others, inhabitants of Canada,

RESPECTFULLY SHEWETH,

That the laws now in force in Upper and Lower Canada respectively, which fix the legal rate of interest for the loan and forbearance of money at 6 per cent. per annum, require alteration and amendment.

Your petitioners, with the confidence of experience, humbly assert that the policy which, in the early period of our history, dictated those enactments to which your petitioners refer, now no longer exists. On the contrary, your petitioners maintain that the continuance of those laws is a serious impediment to the welfare and prosperity of the country.

That, situated as this colony is, every possible inducement should be held out to encourage the introduction and circulation of capital, without restriction. That the present restrictions operate to the prejudice of the colony, by inducing capitalists to invest their money where such restrictions do not exist; when, at the same time, they would prefer this province, a portion of the British empire, for the field of their operations, if equal encouragement were given to them by the laws of the country.

That your petitioners condemn the principle which restricts the profit of the lender of money to 6 per cent. per annum ; whilst the vendor of the ordinary necessities of life, and of every other description of property, is not interfered with by law, but allowed to make the greatest profit he can.

That your petitioners are of opinion that supply and demand, without legislative interference, ought to regulate the value of money, in like manner with other property ; and that the establishment of such a principle would not only be of incalculable advantage to the community at large, but would obviate the violation of the laws as at present existing ; for it is a notorious fact, that money is often lent and borrowed at a higher rate of interest than that prescribed by law.

Your petitioners respectfully beg leave to cite England as an example in favour of their views on this subject, where the Usury Laws have been repealed upon all money transactions, excepting loans on landed property secured by mortgage ; by which enactments the greatest facilities and benefits have been conferred on the commercial community and the mercantile interest generally.

Your petitioners therefore humbly pray that the acts at present regulating the interest of money in this colony, may be so far altered and amended as to enable parties to contract to give and receive such a rate of interest as they may agree upon ; and also to enable the lender to enforce, if necessary, through the medium of the ordinary tribunals of the country, the principal sum and interest contracted for.

And your petitioners, as in duty bound, will ever pray, &c.

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